

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

A.G., a minor child, by and through her mother and next of friend, K.C.; D.A., a minor child, by and through her mother and next of friend, B.A.; A.L., a minor child, by and through her mother and next of friend, C.T.; M.K., a minor child, by and through her mother and next of friend, K.K.; and M.H., a minor child, by and through her mother and next of friend, B.H., * * * * *

Plaintiffs,

V.

AUTAUGA COUNTY BOARD OF
EDUCATION; JOSEPH L. BUTLER; DENE
CLEVELAND and TERRY WRIGHT,

Defendants.

B.H., a minor child, by and through his mother and next of friend, D.S.,

Plaintiffs,

AUTAUGA COUNTY BOARD OF
EDUCATION; JOSEPH L. BUTLER; DENE
CLEVELAND and TERRY WRIGHT,

Defendants.

* CASE NO.: 2:06cv393-SRW

MOTION TO COMPEL THE DEPOSITION OF JIM ABRAHAM

Plaintiffs, pursuant to Rule 30(a) F.R.C.P., move the Court for an Order compelling the deposition of Jim Abraham on the mutually agreed date of September 7, 2006 at 9:00 a.m.

As grounds for their motion, they would show the following:

1. On July 20, 2006 Plaintiffs noticed the deposition of Jim Abraham for August 16, 2006 to immediately follow the deposition of Angel Garrett, which was set on the same date to begin at 1:00 p.m. (See Exhibit "A")

2. Plaintiffs counsel arrived at the designated site for the deposition of both Garrett and Abraham and learned defense counsel wanted Mr. Abraham to be present during the deposition of Angel Garrett.

3. Plaintiffs counsel objected to having Mr. Abraham present during the deposition of Angel Garrett and attempted to resolve the matter between them without Court intervention.

4. After not being able to resolve the issue, Plaintiffs counsel called the Court for intervention in resolving the issue. The Court, after hearing oral argument by telephone from the parties, granted Plaintiffs Motion to Exclude Mr. Abraham from Angel Garrett's deposition, unless the Defendants were going to designate him as the corporate representative for the Defendants for the remainder of the discovery in this case.

5. Plaintiffs counsel did not start Angel Garrett's deposition until 5:00 p.m. and concluded her deposition at approximately 9:45 p.m. At that point, the defense counsel informed Plaintiffs counsel that she would not put Mr. Abraham up for deposition that evening and would not put him up for deposition the following day (Thursday, Friday or Saturday). This was done over Plaintiffs objection.

6. Defense counsel then provided several alternative dates when Mr. Abraham could be available for his deposition, one of those dates was September 7, 2006. (See Exhibit "B")

7. On August 21, 2006, Plaintiffs re-noticed Jim Abraham's deposition for September 7, 2006 at 9:00 a.m. (See Exhibit "C")

8. On August 25, 2006, Plaintiffs counsel received a fax from defense counsel indicating a conflict with September 7, 2006. (See Exhibit "D" and "E")

9. On August 28, 2006, Plaintiffs counsel, on a conference call with defense counsel, were informed that the conflict was Mr. Boardman, an attorney with that firm could not be available on September 7th at 9:00 a.m. Plaintiffs counsel agreed to move the time of the deposition either earlier or later on September the 7th to accommodate Mr. Boardman, but defense counsel would not agree and stated September 20, 2006 was a date Mr. Abraham could be available without a conflict.

10. Plaintiffs counsel stated that Mr. Boardman was not present at the previous depositions (approximately 14) in this case and Plaintiffs counsel failed to see the need to reset the deposition based on the stated reason.

WHEREFORE, Plaintiffs counsel moves the Court to enter an Order compelling the deposition of Mr. Abraham for September 7, 2006 at 9:00 a.m.

/s/Michael J. Crow
MICHAEL J. CROW (CR039)
Attorney for Plaintiffs

OF COUNSEL:

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/s/Robert D. Drummond
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon all counsel of record listed below by placing a copy of the same in the U.S. Mail, first class postage prepaid, on this the 30th day of August, 2006.

/s/Michael J. Crow
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